

# House File 649 - Introduced

HOUSE FILE 649  
BY COMMITTEE ON GOVERNMENT  
OVERSIGHT

(SUCCESSOR TO HSB 240)

## A BILL FOR

1 An Act relating to the liability of a land holder for the  
2 public use of private lands and waters for a recreational  
3 purpose or urban deer control.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 461C.1, Code 2013, is amended to read as  
2 follows:

3 **461C.1 Purpose.**

4 The purpose of this chapter is to encourage private ~~owners~~  
5 holders of land to make land and water areas available to the  
6 public for a recreational purposes purpose and for urban deer  
7 control by limiting ~~an owner's~~ a holder's liability toward  
8 persons entering onto the ~~owner's~~ holder's property for such  
9 purposes. The provisions of this chapter shall be construed  
10 liberally and broadly in favor of private holders of land to  
11 accomplish the purposes of this chapter.

12 Sec. 2. Section 461C.2, subsections 3, 5, and 6, Code 2013,  
13 are amended to read as follows:

14 3. "Land" means private land ~~located in a municipality~~  
15 including that is one or any combination of the following:  
16 abandoned or inactive surface mines, caves, and; land used  
17 for agricultural purposes, including; marshlands, timber,  
18 grasslands; and or the privately owned roads, water paths,  
19 trails, waters, water courses, private ways and exteriors and  
20 interiors of buildings, structures, and machinery, or equipment  
21 appurtenant thereto. "Land" includes land that is not open to  
22 the general public. "Land" also includes private land located  
23 in a municipality in connection with and while being used for  
24 urban deer control.

25 5. "Recreational purpose" means the following or any  
26 combination thereof: Hunting, trapping, horseback riding,  
27 fishing, swimming, boating, camping, picnicking, hiking,  
28 pleasure driving, motorcycling, all-terrain vehicle riding,  
29 nature study, water skiing, snowmobiling, other summer and  
30 winter sports, educational activities, and viewing or enjoying  
31 historical, archaeological, scenic, or scientific sites while  
32 going to and from or actually engaged therein. "Recreational  
33 purpose" includes the activity of accompanying another person  
34 who is engaging in such activities. "Recreational purpose"  
35 is not limited to active engagement in such activities, but

1 includes entry onto, use of, passage over, and presence on any  
 2 part of the land in connection with or during the course of  
 3 such activities.

4 6. "*Urban deer control*" means deer hunting with a bow  
 5 and arrow on private land in a municipality, without charge,  
 6 as authorized by a municipal ordinance, for the purpose  
 7 of reducing or stabilizing an urban deer population in the  
 8 municipality. "*Urban deer control*" is not limited to active  
 9 engagement in the activity of urban deer control but includes  
 10 entry onto, use of, passage over, and presence on any part  
 11 of the land in connection with or during the course of such  
 12 activity.

13 Sec. 3. Section 461C.3, Code 2013, is amended to read as  
 14 follows:

15 **461C.3 Liability of owner holder limited.**

16 1. Except as specifically recognized by or provided in  
 17 section 461C.6, an ~~owner~~ a holder of land ~~owes no~~ does not  
 18 owe a duty of care to keep the premises safe for entry or use  
 19 by others for a recreational ~~purposes~~ purpose or urban deer  
 20 control, or to give any warning of a dangerous condition, use,  
 21 structure, or activity on such premises to persons entering for  
 22 such purposes.

23 2. Except as specifically recognized by or provided in  
 24 section 461C.6, a holder of land does not owe a duty of care  
 25 to others solely because the holder is guiding, directing,  
 26 supervising, or participating in any recreational purpose or  
 27 urban deer control undertaken by others on the holder's land.

28 Sec. 4. Section 461C.4, unnumbered paragraph 1, Code 2013,  
 29 is amended to read as follows:

30 Except as specifically recognized by or provided in section  
 31 461C.6, a holder of land who either directly or indirectly  
 32 invites or permits without charge any person to use such  
 33 property for a recreational ~~purposes~~ purpose or urban deer  
 34 control does not thereby:

35 Sec. 5. Section 461C.4, Code 2013, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 2A. Assume a duty of care to such person  
3 solely because the holder is guiding, directing, supervising,  
4 or participating in any recreational purpose or urban deer  
5 control undertaken by the person on the holder's land.

6 Sec. 6. Section 461C.5, Code 2013, is amended to read as  
7 follows:

8 **461C.5 Duties and liabilities of ~~owner~~ holder of leased land.**

9 Unless otherwise agreed in writing, the provisions of  
10 sections 461C.3 and 461C.4 shall be deemed applicable to the  
11 duties and liability of ~~an owner~~ a holder of land leased, or  
12 any interest or right therein transferred to, or the subject of  
13 any agreement with, the United States or any agency thereof,  
14 or the state or any agency or subdivision thereof, for a  
15 recreational ~~purposes~~ purpose or urban deer control.

16 Sec. 7. Section 461C.6, Code 2013, is amended to read as  
17 follows:

18 **461C.6 When liability lies against ~~owner~~ holder.**

19 Nothing in this chapter limits in any way any liability which  
20 otherwise exists:

21 1. For willful or malicious failure to guard or warn against  
22 a dangerous condition, use, structure, or activity.

23 2. For injury suffered in any case where the ~~owner~~ holder of  
24 land charges the person or persons who enter or go on the land  
25 for the recreational use thereof or for deer hunting, except  
26 that in the case of land or any interest or right therein,  
27 leased or transferred to, or the subject of any agreement  
28 with, the United States or any agency thereof or the state or  
29 any agency thereof or subdivision thereof, any consideration  
30 received by the holder for such lease, interest, right, or  
31 agreement shall not be deemed a charge within the meaning of  
32 this section.

33 Sec. 8. Section 461C.7, subsection 2, Code 2013, is amended  
34 to read as follows:

35 2. Relieve any person using the land of another for a

1 recreational ~~purposes~~ purpose or urban deer control from any  
 2 obligation which the person may have in the absence of this  
 3 chapter to exercise care in the use of such land and in the  
 4 person's activities thereon, or from the legal consequences of  
 5 failure to employ such care.

6 EXPLANATION

7 This bill relates to the public use of certain private lands  
 8 and waters. The bill amends Code chapter 461C whose purpose,  
 9 set out in Code section 461C.1, is to encourage private owners  
 10 of land to make their land and water areas available to the  
 11 public for recreational purposes and for urban deer control,  
 12 by limiting the landowners' liability to persons who enter  
 13 onto their land to pursue such activities. The bill makes the  
 14 entire Code chapter applicable to holders of land (including  
 15 tenants and others in control), not just landowners.

16 The bill relates to the recent decision rendered by the Iowa  
 17 Supreme Court in Sallee v. Stewart, (No. 11-0892) (Iowa 2013).  
 18 The bill modifies the definitions of "land", "recreational  
 19 purpose", and "urban deer control" and includes immunity from  
 20 liability for land holders with respect to specified ancillary  
 21 activities or persons.

22 The bill broadens the definition of the land and water areas  
 23 included in such limitations of liability and provides that  
 24 such land does not have to be open to the general public to  
 25 be subject to the protections of Code chapter 461C. The bill  
 26 defines "land" to include private land within a municipality  
 27 used for urban deer control.

28 The bill also defines activities that constitute a  
 29 "recreational purpose" to include educational activities.  
 30 In addition, the bill provides that "recreational purpose"  
 31 includes a person's activity in accompanying another person  
 32 who is engaged in a recreational purpose. "Recreational  
 33 purpose" and "urban deer control" are not limited to active  
 34 engagement in such activities, but also include entry onto,  
 35 use of, passage over, and presence on any part of the land in

1 connection with or during the course of such activities.

2     The bill provides that a holder of land does not owe or  
3 assume a duty of care to others solely because the holder  
4 is guiding, directing, supervising, or participating in any  
5 recreational purpose or urban deer control undertaken by others  
6 on the holder's land.